

The Second Division consisted of the regular members and in addition Referee Robert O. Harris when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers' International Association
(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. That under the Current agreement, Foundryman B. L. Cunningham was unjustly discharged from service on April 12, 1990.

2. That accordingly, the Carrier be required to reinstate the aforementioned employee to service with all rights unimpaired, including seniority, vacation, health and welfare benefits, life insurance, and that he be made whole for all time lost.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant failed to complete the work of preparing one steel pouring ladle for preheating and to completely prepare a second ladle during his work shift. The Carrier witnesses indicated that it takes approximately three hours to completely prepare a ladle and that Claimant did not complete the work assigned him in seven hours. Claimant was found to be derelict in his duties and was dismissed from service April 12, 1990.

Claimant was hired April 3, 1989. He was counseled concerning his duties on August 2, 1989, September 8, 1989 and October 19, 1989. On December 12, 1989, he waived formal investigation concerning the duties of ladle preparation and accepted a three-year probation to maintain satisfactory performance.

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Docket No. 12002
92-2-90-2-135


The only question in this case is whether the discharge was too severe a penalty. The Board finds that it was too severe, since the Carrier knew early in the day that Claimant was not completing the scheduled work in a timely fashion. It should have warned him of the consequences of his non-completion of the work. Accordingly, Claimant will be given one final chance to perform his trade. He will be reinstated with seniority and all other benefits unimpaired, but without compensation for time lost.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of January 1992.